IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

WRIT PETITION NO. 1779 OF 2004

Ramesh Chandra Pathak ... Petitioner

Vs.

Himalaya Parvartiya Co-op. Housing Society Ltd. & Ors. ... Respondents

Mr. A.A. Joshi i/by Nivit Srivastava for Petitioner.

Mr. G.S. Bhat for Respondent No. 1.

Mr. L.T. Satelkar, A.G.P. for Respondent Nos. 2, 3 and 4.

CORAM : F.I. REBELLO,J.
DATED : AUGUST 06, 2004

P.C. :

1. Rule. Heard forthwith.

2. Suggestion put by the court to the parties have been accepted. In the light of that the following order :

3. The impugned order dated 31.03.2004 is set aide. The matter is remanded back to the District Deputy Registrar with the following directions :

(i) The District Deputy Registrar to appoint

auditor fully conversant with accounting to consider the statement of claim of both the parties, namely the petitioners contention that the Respondents are are due and liable to pay dues and the respondent's contention that they have already paid the dues claimed. After reconciling the statement and hearing the parties, the auditor to submit his report to the District Deputy Registrar. It is made clear that the amounts to be considered will be both the principal amount as also interest.

(ii) Based on the said report, the District Deputy Registrar to pass an order determining the liabilities of the parties.

(iii) On such determination, the respondents will deposit the amount with the society. That amount will be subject to any order that may be passed against the order in proceedings taken out by the petitioner herein, if aggrieved by the order of the District Deputy Registrar.

(iv) It is further made clear that the auditor will take into consideration the payments which the petitioner claims to have paid on various authorities directly and accordingly give credit

for the same.

(v) The auditor will submit his report within two months from the date of his appointment.

(vi) The District Deputy Registrar to pass the order within one month thereafter.

(vii) Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO,J.)